

NOTICE

This Order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

2024 IL App (4th) 230626-U

NO. 4-23-0626

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

May 28, 2024

Carla Bender

4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Sangamon County
RONALD D. PORTER,	)	No. 20CF557
Defendant-Appellant.	)	
	)	Honorable
	)	John M. Madonia,
	)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.

Justices Knecht and Vancil concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court vacated defendant's conviction for concealment of a homicidal death because it was carved from the same physical act as his conviction for residential arson, in violation of the one-act, one-crime doctrine. The appellate court otherwise affirmed the trial court's judgment.

¶ 2 In May 2020, the State charged defendant, Ronald D. Porter, with aggravated stalking (count I) (720 ILCS 5/12-7.4(a)(2) (West 2020)), home invasion (count II) (*id.* § 19-6(a)(1)), aggravated criminal sexual assault (count III) (*id.* § 11-1.30(a)(1)), three counts of first degree murder (counts IV-VI) (*id.* § 9-1(a)(1)), armed robbery (count VII) (*id.* § 18-2(a)(1)), residential arson (count VIII) (*id.* § 20-1(b)), concealment of a homicidal death (count IX) (*id.* § 9-3.4(a)), obstructing justice (count X) (*id.* § 31-4(a)(1)), aggravated cruelty to animals (count XI) (510 ILCS 70/3.01 (West 2020)), unlawful use of a credit card (count XII) (720 ILCS 5/17-32(b)), and stalking (count XIII) (*id.* § 12-7.3(a)(1)).

¶ 3 In July 2021, defendant pleaded guilty to all 13 counts without any agreement from

the State.

¶ 4 In September 2021, following a sentencing hearing, the trial court imposed an aggregate sentence of 130 years in prison, which included sentences of 10 years for residential arson, 5 years for concealment of a homicidal death, and 3 years for obstructing justice.

¶ 5 Defendant appeals, arguing that the trial court erred by entering judgments for residential arson, concealment of a homicidal death, and obstructing justice because the three offenses arose from the same physical act of lighting a fire, in violation of the one-act, one-crime doctrine.

¶ 6 Because we agree that defendant's conviction for concealment of a homicidal death was carved from the same physical act as his conviction for residential arson, in violation of the one-act, one-crime doctrine, we vacate his conviction for concealment of a homicidal death. We otherwise affirm the trial court's judgment.

¶ 7 I. BACKGROUND

¶ 8 A. The Charges and Guilty Plea

¶ 9 In May 2020, the State charged defendant with aggravated stalking (count I) (*id.* § 12-7.4(a)(2)), home invasion (count II) (*id.* § 19-6(a)(1)), aggravated criminal sexual assault (count III) (*id.* § 11-1.30(a)(1)), three counts of first degree murder (counts IV-VI) (*id.* § 9-1(a)(1)), armed robbery (count VII) (*id.* § 18-2(a)(1)), residential arson (count VIII) (*id.* § 20-1(b)), concealment of a homicidal death (count IX) (*id.* § 9-3.4(a)), obstructing justice (count X) (*id.* § 31-4(a)(1)), aggravated cruelty to animals (count XI) (510 ILCS 70/3.01 (West 2020)), unlawful use of a credit card (count XII) (720 ILCS 5/17-32(b)), and stalking (count XIII) (*id.* § 12-7.3(a)(1)). The charges alleged, generally, that in January 2020, defendant stalked A.N., broke into her home, sexually assaulted her, murdered her, then lit her body on fire inside of her

home. Relevant to this appeal are the charges of (1) residential arson, (2) concealment of a homicidal death, and (3) obstructing justice.

¶ 10 Regarding the residential arson charge (count VIII), the State alleged that defendant “knowingly damaged a building or structure that is the dwelling place of another, being the residence of A.N. located at 710 S. State St., Springfield, Sangamon County, Illinois, by means of fire, without the consent of A.N.” Regarding the concealment of a homicidal death charge (count IX), the State alleged that defendant, “with knowledge A.N. was deceased by homicidal means, knowingly concealed the homicidal nature of A.N.’s death by igniting a fire designed to conceal injuries suggestive of A.N.[’s] homicidal death.” And regarding the obstructing justice charge (count X), the State alleged that defendant, “with the intent to prevent the apprehension [or] obstruct the prosecution of himself, knowingly destroyed physical evidence in that the defendant lit a fire for the purpose of destroying DNA and other biological evidence.”

¶ 11 In July 2021, defendant pleaded guilty to all 13 counts without any agreement by the State. The State offered the following factual basis for the plea:

“[O]n December 24th, 2019, the Defendant knowingly and without lawful justification followed A.N., placed her under surveillance, that is count I of aggravated stalking. And that the Defendant’s actions on December 24th placed a reasonable apprehension of future bodily harm as reflected in text messages A.N. sent to friends that night. Proof would further be established that on January 10, 2020, the Defendant, who was not a peace officer acting in the line of duty, knowingly and without authority entered the residence of A.N. located in the 700-block of South State Street in Springfield, Sangamon County, Illinois and remained there until A.N. arrived home in the early morning hours of January 11th,

2020. The Defendant, while wielding a weapon and threatening the use of—the imminent use of force, committed an act of sexual penetration against A.N. by placing his penis in contact with the sex organ of A.N. The Defendant restrained A.N. by binding her arms and then intentionally stabbed her multiple times about the neck thereby causing her death in an exceptionally brutal or heinous manner indicative of wanton cruelty. The Defendant also knowingly took property from A.N., being a set of keys.

The Defendant then knowingly lit A.N.’s body on fire along with her bedroom for the purposes of concealment of the homicidal nature of A.N.’s death and for the purpose of destruction of evidence such as DNA or other biological evidence. After lighting A.N.’s bedroom on fire, Defendant also locked her companion animal, whose name was Pepper, in the room, thereby causing Pepper’s death by smoke inhalation. The Defendant then took A.N.’s debit card, attempted to use it at two ATM’s in the early morning hours of January 11, 2020.

And, further, the Defendant knowingly followed a minor, M.W., in the early morning hours of January 11th, 2020. Again, on January 26th, 2020, the Defendant followed M.W. at her place of work, placed her under surveillance and in a reasonable apprehension of future bodily harm, sexual assault, confinement or restraint.”

¶ 12 The trial court found that “there are factual bases to support each of the pleas.”

¶ 13 B. The Sentencing Hearing

¶ 14 In September 2021, the trial court conducted defendant’s sentencing hearing. Jason Sloman, a detective employed by the Springfield Police Department, testified about his

investigation into A.N.'s murder. Sloman testified that his investigation included an interview with defendant, during which defendant provided many of the details of the murder. Sloman stated that defendant stalked A.N. at her home for several days prior to the murder, including unscrewing an outdoor lightbulb and entering her house to plan his attack. The night of the murder, while she was away from her home, defendant broke the window of her back door. He waited for her car to arrive in the area and sprinted to her back door, entering her home and surprising her as she entered through the front door. Defendant made A.N. remove her clothes, sexually assaulted her, then bound her hands, placed a bag over her head, and stabbed her multiple times, causing her death.

¶ 15 The following exchange then occurred:

“Q. After the Defendant was finished with those acts, [which caused the death of A.N.,] he takes [A.N.'s] sheets from her bed because he was worried that there was evidence on them, correct?

A. That is correct.

Q. He also takes her backpack?

A. That is correct.

Q. And he then dumps a bottle of alcohol on her body?

A. We believe several bottles, yes.

* * *

Q. He gathers up wrapping paper and other flammable items, puts them on or near [A.N.'s] body and lights her on fire?

A. That is correct.

* * *

Q. But that wasn't enough, he then moved on in further effort to conceal

what he had done to obstruct this investigation by taking the batteries out of the smoke detector in the house?

A. Yes. When he initially started the fire, there was a lot of smoke. But the smoke detector started going off, so he used a chair and deactivated it by taking the battery out.

* * *

Q. The Defendant then leaves the residence and goes to [A.N.'s] vehicle?

A. Yes.

Q. Takes her purse including her ATM card?

A. That is correct.

Q. And he returns home and switches vehicles?

A. Yes.

* * *

Q. And the investigation showed that at approximately 12:47 he attempts to use [A.N.'s] ATM card at the [credit union] in the 900-block of Converse in Springfield?

A. That is correct.

Q. That's less than an hour after he brutally raped and murdered [A.N.] and attempted to burn her house to the ground to destroy the evidence, correct?

A. That is correct.

* * *

Q. At some point he gets in his [vehicle] again, goes to the Pillsbury neighborhood in Springfield and attempts to burn other evidence in a burn pit in

that area, correct?

A. Yes. On previous robberies he had mentioned as well as the homicide that he would take it up by an abandoned salvage yard and burn the evidence so no one would find it.

Q. So, he told you that was his go to spot to destroy evidence?

A. Yes.

* * *

Q. While he's still in the Pillsbury neighborhood, he burns [A.N.'s] sheets, he burns his clothes, he discards the knife, [A.N.'s] purse and the ATM card, correct?

A. That is correct."

¶ 16 The trial court imposed an aggregate sentence of 130 years in prison, comprised of the following sentences, which were ordered to be served consecutively: 55 years for first degree murder (count IV), 30 years for aggravated criminal sexual assault (count III), 15 years for home invasion (count II), 15 years for armed robbery (count VII), 10 years for residential arson (count VIII), and 5 years for concealment of a homicidal death (count IX). The court also imposed the following sentences, to be served concurrently with all other sentences: 5 years for aggravated stalking (count I), 3 years for obstructing justice (count X), 3 years for unlawful use of a credit card (count XII), and 3 years for stalking (count XIII). The sentence for first degree murder was to be served at 100%, and the sentences for aggravated criminal sexual assault, home invasion, and armed robbery were to be served at 85%. (Counts V and VI, which alleged alternate theories of first degree murder, merged with count IV.)

¶ 17 This appeal followed.

¶ 18

II. ANALYSIS

¶ 19 Defendant appeals, arguing that the trial court erred by entering judgments for residential arson, concealment of a homicidal death, and obstructing justice because the three offenses arose from the same physical act, in violation of the one-act, one-crime doctrine. We agree in part and disagree in part.

¶ 20

A. The Applicable Law

¶ 21 Under the one-act, one-crime doctrine, “a criminal defendant may not be convicted of multiple offenses when those offenses are all based on precisely the same physical act.” *People v. Coats*, 2018 IL 121926, ¶ 11, 104 N.E.3d 1102 (citing *People v. King*, 66 Ill. 2d 551, 566, 363 N.E.2d 828, 944 (1977)). However, multiple convictions are permitted when a defendant has committed several acts, despite the interrelationship of those acts. *King*, 66 Ill. 2d at 566. For purposes of the doctrine, the definition of “act” is “any overt or outward manifestation which will support a different offense.” *Id.*

¶ 22

A one-act, one-crime analysis involves a two-step process. *Coats*, 2018 IL 121926, ¶ 12. “First, the court ascertains whether the defendant’s conduct consisted of a single physical act or separate acts.” *Id.* “If it is determined that the defendant committed multiple acts, the court then moves to the second step and determines whether any of the offenses are lesser-included offenses.” *Id.* “If none of the offenses are lesser-included offenses, then multiple convictions are proper.” *Id.*

¶ 23

Whether a one-act, one-crime violation occurred is a question of law that is reviewed *de novo*. *Id.*

¶ 24

B. This Case

¶ 25

Defendant contends that all three convictions arise from the single physical act of lighting a fire. In support, defendant points to the charging documents, which allege that defendant

(1) damaged a residence “by means of fire,” (2) concealed a homicidal death by “lighting a fire,” and (3) obstructed justice by “li[ghting] a fire.” Defendant asserts that all three charges “rely on the same act” because (1) “the evidence at the preliminary hearing was that a single fire had been deliberately lit,” (2) “[i]n the factual basis, the State [proffered] that [defendant] ‘knowingly lit A.N.’s body on fire along with her bedroom for the purposes of concealment of the homicidal nature of A.N.’s death and for the purpose of destruction of evidence such as DNA or other biological evidence,’ ” and (3) “at the sentencing hearing *** Sloman testified that [defendant] poured alcohol on A.N.’s body, placed flammable items around her body and lit it on fire.”

¶ 26 The State responds that defendant performed several physical acts, including (1) removing bloody sheets from A.N.’s bed, (2) dumping several bottles of alcohol on her body, (3) gathering wrapping paper and other flammable items, (4) placing those flammable items on or near A.N.’s body, and (5) lighting those items on fire. The State further points to Sloman’s testimony that, after lighting those items on fire, defendant left A.N.’s house and “lit a different fire in a salvage yard ‘to burn other evidence [consisting of A.N.’s sheets, defendant’s clothes, the knife he used to murder A.N., and A.N.’s purse and credit card] in a burn pit.’ ”

¶ 27 We conclude that the residential arson and concealment of a homicidal death convictions were carved from a single physical act, but the obstructing justice conviction was not.

¶ 28 1. *Residential Arson and Concealment of a Homicidal Death*

¶ 29 To determine whether the residential arson and concealment convictions are carved from the same physical act, we first examine the charging instruments. The State alleged that defendant committed residential arson by “knowingly damag[ing] a building or structure that is the dwelling place of another, being the residence of A.N. *** by means of fire, without the consent of A.N.” The State further alleged that defendant committed concealment of a homicidal death “by

igniting a fire designed to conceal injuries suggestive of A.N.[’s] homicidal death.”

¶ 30 Clearly, the residential arson conviction could only arise from defendant’s igniting the fire at A.N.’s house. The question becomes, then, whether defendant performed another physical act that could support a separate offense—namely, concealment of a homicidal death. The State asserts that, although defendant’s lighting the flammable items on fire inside of A.N.’s house supports the residential arson conviction, his (1) pouring alcohol on A.N.’s body, (2) removing the bloody sheets from her bed to destroy them at the burn pit, and (3) lighting A.N.’s body on fire are all separate physical acts that support the concealment conviction. We disagree.

¶ 31 To begin, the record does not support the State’s suggestion that defendant’s setting fire to (1) the flammable items and (2) A.N.’s body were two separate physical acts. Instead, Sloman testified that defendant lit the flammable items on fire “on or near” A.N.’s body, and the evidence otherwise establishes that defendant lit only the alcohol-soaked paper, which ignited in the fire that burned A.N.’s body. Accordingly, the record supports only one act of lighting a fire inside of A.N.’s home, not two.

¶ 32 Next, after attributing defendant’s act of igniting the fire to the residential arson conviction, no additional physical act exists (nor was one alleged in the charging instruments) that could support the separate offense of concealment of a homicidal death. Defendant’s pouring the alcohol on A.N.’s body was insufficient on its own to “conceal the homicidal injuries.” It was the act of lighting the fire, which was accelerated by the alcohol, that ultimately concealed the injuries. Had defendant only poured alcohol on A.N.’s body and then left, the homicidal injuries would not have been concealed; they would have been apparent to the first person to encounter A.N.’s body. Similarly, defendant’s acts of (1) placing the wrapping paper and other flammable items on or near A.N.’s body and (2) removing A.N.’s bloody sheets from her home, on their own, did nothing to

disguise the homicidal nature of her injuries. Put another way, the only act defendant took that could have concealed A.N.'s injuries was the act of igniting the fire "on or near" her body.

¶ 33 The State cites *People v. Rodriguez*, 169 Ill. 2d 183, 187 (1996), which in turn cites *People v. Lobdell*, 121 Ill. App. 3d 248, 252 (1983), for the proposition that "a person can be guilty of [multiple] offenses when a common act is part of [multiple] offenses." However, *Rodriguez* and *Lobdell* are distinguishable from the present case.

¶ 34 In *Rodriguez*, 169 Ill. 2d at 185, the defendant was convicted of home invasion and aggravated criminal sexual assault. The defendant argued that both offenses arose from the same physical act of threatening the victim with a gun *Id.* at 187-88. The appellate court concluded that both convictions were proper because, although they shared the common element of threatening the victim with a gun, the aggravated sexual assault offense required the separate physical act of sexual penetration and the home invasion offense required the separate physical act of entering the victim's dwelling. *Id.* at 190-91.

¶ 35 Likewise, in *Lobdell*, 121 Ill. App. 3d at 249, the defendant was convicted of residential burglary and home invasion. He argued that his burglary conviction must be vacated because it arose from the same act of entering the victim's home that served as the basis for the home invasion conviction. *Id.* The appellate court affirmed both convictions, concluding that, although both convictions required entry as a physical act, the home invasion offense required the additional physical act of intentional injury. *Id.* at 252. The court explained as follows:

"A person can be guilty of two offenses when a common act is *part* of both offenses or *part* of one offense and the only act of the other offense. [Citation.] In the present case, the defendant's home invasion and residential burglary convictions both required entry as a physical act. It is true, as the defendant

maintains, that there was only one act of entry into the victim's home which served as the basis for both of the defendant's convictions. However, as the defendant admits in his brief, home invasion involves an additional act of intentional injury. Since entry into the victim's home was only part of the home invasion offense and the sole act of the residential burglary offense, the two offenses were not carved from the same physical act." (Emphases added.) *Id.*

¶ 36 As *Rodriguez* and *Lobdell* illustrate, separate convictions can be sustained when both offenses share a common act, but at least one of the offenses must require a separate physical act as an element of the offense. In *Rodriguez*, those additional acts were sexual penetration and entry into the victim's dwelling, and in *Lobdell*, intentional injury.

¶ 37 In the present case, both the residential arson conviction and the concealment conviction required only the physical act of lighting the fire. Unlike *Rodriguez* and *Lobdell*, neither offense required another physical act. Although residential arson required the additional element of occurring in a residence and concealment required the additional element of a homicidal death, those additional requirements were not physical acts but merely factual prerequisites. Had either the residential arson or concealment offense required an additional physical act as an element of the offense—such as the sexual penetration or entry into the dwelling in *Rodriguez*, or the intentional injury in *Lobdell*—separate convictions could be entered despite the offenses sharing a common act of lighting a fire. But that is not the case here. Both the residential arson and concealment offenses required only one physical act, and in this case it was the same act—lighting the fire on or near A.N.'s body.

¶ 38 For these reasons we conclude that trial court's entry of convictions for both residential arson and concealment of a homicidal death violates the one-act, one-crime doctrine

because the offenses were carved from the same physical act of lighting a fire. See *People v. McLaurin*, 184 Ill. 2d 58, 106-107, 703 N.E.3d 11, 34 (1998) (vacating the defendant’s aggravated arson conviction because it was carved from the same physical act of lighting a fire as his intentional murder conviction).

¶ 39 *2. Obstructing Justice*

¶ 40 Although we have concluded that the residential arson and concealment convictions were carved from the same physical act, we conclude that the obstructing justice conviction is supported by a separate physical act.

¶ 41 Defendant contends that the evidence in this case shows that he set only one fire. To the contrary, Detective Sloman testified that, after defendant ignited the fire at A.N.’s home, he took evidence of his crimes from the home to a “burn pit,” where he ignited a second fire and burned those items. Importantly, the obstructing justice charge alleges simply that defendant “knowingly destroyed physical evidence in that the defendant lit a fire for the purpose of destroying DNA and other biological evidence.” That charge contains no language confining it to the fire defendant ignited at A.N.’s home. Because the record establishes that defendant destroyed DNA and other biological evidence—namely, A.N.’s bloody sheets, defendant’s clothes, and DNA evidence on the knife—in a second, separate fire, defendant’s conviction for obstructing justice arises not only from a separate act, but a separate fire at a separate time in a separate location.

¶ 42 Accordingly, we conclude that the trial court’s entry of convictions for (1) both residential arson and concealment of a homicidal death violates the one-act, one-crime doctrine and (2) obstructing justice and any remaining offenses does *not* violate the doctrine.

¶ 43 *3. Remedy*

¶ 44 When a one-act, one-crime violation occurs, “sentence should be imposed on the

more serious offense and the less serious offense should be vacated.” *People v. Artis*, 232 Ill. 2d 156, 170, 902 N.E.2d 677, 686 (2009). “In determining which offense is the more serious, a reviewing court compares the relative punishments prescribed by the legislature for each offense.” *Id.* Residential arson is a Class 1 felony (720 ILCS 5/20-1(b) (West 2020)), and concealment of a homicidal death is a Class 3 felony (*id.* § 9-3.4(a)). As a result, we (1) affirm defendant’s conviction and 10-year sentence for residential arson, (2) vacate defendant’s 5-year sentence for concealment of a homicidal death, and (3) affirm defendant’s conviction and 3-year sentence for obstructing justice.

¶ 45

III. CONCLUSION

¶ 46

For the reasons stated, we (1) affirm defendant’s convictions and sentences for residential arson and obstructing justice and (2) vacate defendant’s conviction and sentence for concealment of a homicidal death.

¶ 47

Affirmed in part and vacated in part.